

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

SADRI SHIR, NAWAD SHIR, and)
PORTLAND MASJID AND ISLAMIC)
CENTER,)
)
Plaintiffs)
)
v.)
) Civil Action No.2:09-cv-370
CITY OF PORTLAND,)
)
Defendant.)
)
)
)
)

CONSENT ORDER FOR INJUNCTION PENDING FINAL JUDGMENT

WHEREAS Plaintiffs filed this action on August 13, 2009, alleging that Defendant violated, *inter alia*, their religious-liberty rights under the First Amendment to the U.S. Constitution and the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. §§ 2000cc, et seq., by various actions taken pursuant to the municipal zoning code that have effectively prevented Plaintiffs from using the building located at 978 Washington Avenue in the City of Portland (“Washington Avenue property”), to gather for prayer services, religious study, group meals, and observance of religious holidays (“religious use”);

WHEREAS the City of Portland seeks to enforce its zoning laws as enacted;

WHEREAS, Plaintiffs maintain that they suffer and will continue to suffer irreparable

injury, loss, and damage, absent this agreement; and

WHEREAS, on August 17, 2009, the parties agreed to entry of a consent order relating to the use of the Washington Avenue property during the pendency of this litigation to obviate the need for Plaintiffs to seek a temporary restraining order:

THE PARTIES HEREBY STIPULATE AND AGREE TO BE BOUND AS FOLLOWS:

1. This Order is entered based on a negotiated agreement between the parties and is not to be construed as an admission of liability by any of the parties.
2. This Order shall remain in effect until final judgment or dismissal, unless modified by further Order of this Court.
3. Defendant (including their agencies, agents, elected officials, representatives, officers, employees, boards, or departments) shall not take any adverse land-use action against Plaintiffs, including, but not limited to, denying site plan approval or issuing any citations for violations of the City's Land Use Code due to the religious use of the Washington Avenue property for the period or periods before entry of final judgment or dismissal in this action. Nothing in this Order prevents the Defendant from enforcing reasonable health and safety regulations that are applied equally to all other structures in the City.
4. Plaintiffs agree to pursue site plan approval for the paving of the parking lot on the Washington Avenue property. The City will review that application on its merits and agrees not

to retaliate in its review process because of this lawsuit.

5. Either party may apply to the Court to amend this Order on proper notice to the other party.

/s/Zachary L. Heiden

Zachary L. Heiden
Maine Civil Liberties Union Foundation

/s/ David A. Lourie

David A. Lourie
Attorneys for Plaintiffs

/s/ Mary Costigan

Mary Costigan
Gary Wood
City of Portland

Attorney for Defendant

This Order is hereby APPROVED on this 18th day of August, 2009, and the relief set forth herein is GRANTED.

/s/ George Z. Singal

Hon. George Z. Singal
U.S. District Court Judge